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DISMISSAL AND CASE CLOSURE UNDER THE ENFORCEMENT PRIORITY SYSTEM

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¹ The EPS rating information is as follows:
Mar. 3, 2017.

1 State Representative, and his campaign committee, Friends of Kevin Boyle (“state committee”).²
2 Specifically, the Complaint alleges that on October 30, 2016, Brendan Boyle sent an email from a
3 Committee email address asking that recipients “donate as much as you can” to Kevin Boyle’s
4 campaign and directed contributors to the state committee’s website through a link to
5 www.votekevinboyle.com, but did not include information regarding the Act’s limitations and
6 prohibitions, or a statement that contributions are not tax deductible.³

7 Respondents acknowledge that Brendan Boyle sent the email requesting contributions on
8 behalf state candidate Kevin Boyle.⁴ Further, Respondents admit that the email did not contain
9 information regarding the Act’s limitations and prohibitions. However, Respondents also assert that
10 it is unlikely that the email prompted prohibited or excessive contributions, and provided sworn
11 statements that Kevin Boyle received only \$1,170 in donations, all from individuals, between the
12 date of the email and the general election.⁵

13 The Act and Commission regulations prohibit federal candidates, federal officeholders, agents
14 acting on their behalf, and entities that are directly or indirectly established, financed, maintained,

² Compl. at 2 (Nov. 7, 2016). At the time of the Complaint, Brendan Boyle was running for reelection.

³ Compl. at 2-3; Compl. Attach. 1. Fundraising solicitations by or on behalf of a political organization, as defined by 26 U.S.C. § 527(e), shall contain an express statement that contributions or gifts to such organizations are not deductible as charitable contributions for Federal income tax purposes. 26 U.S.C. § 6113. Although the email in question did not contain this disclaimer, it is not a violation of the Act and therefore does not fall under the jurisdiction of the Commission.

⁴ Resp. at 1 (Mar. 3, 2017).

⁵ *Id.* See Resp. Attach. 2, Scott Heppard Affidavit (Mar. 1, 2017). In affidavits from Lindsay F. Angerholzer, treasurer for the Committee, and Scott Heppard, volunteer campaign manager for the state committee, Kevin Boyle received only five contributions totaling \$1,170 between the date of the email and the date of the general election. Although Respondents admit that it is not possible to tell whether these five contributions were made through the electronic link in the email, Heppard avers that a review of the contributor history indicates that none of the contributors made aggregate contributions that exceeded \$2,700. Further, Heppard asserts that the five contributors had made earlier contributions to Kevin Boyle’s state campaign and, therefore, had provided occupation and employer information, and had previously affirmed that their contributions were made by the individual and not by a corporation or labor union.

1 controlled by, or acting on behalf of federal candidates or officeholders from soliciting,⁶ receiving,
2 directing, transferring, spending, or disbursing funds in connection with an election for non-federal
3 office, unless the funds are subject to the limitations, prohibitions, and reporting requirements of the
4 Act.”⁷

5 Although the Respondents admit that Brendan Boyle sent an email soliciting funds for his
6 brother that were not limited to funds permissible under the Act, they provided sworn statements that
7 the state committee received only \$1,170 in donations between the date of the email and the election.
8 Given the *de minimis* amount of the contributions in question, and the information provided by the
9 Respondents suggesting that those contributions did not violate the Act’s source prohibition and
10 amount limitations, and in furtherance of the Commission’s priorities, relative to other matters
11 pending on the Enforcement docket, the Office of General Counsel recommends that the Commission
12 exercise its prosecutorial discretion to dismiss the allegation that Brendan Boyle and Citizens for
13 Boyle and Lindsay F. Angerholzer in her official capacity as treasurer violated 52 U.S.C.
14 § 30125(e).⁸

15 **RECOMMENDATIONS**

- 16
17 1. Dismiss the allegation that Brendan Boyle and Citizens for Boyle and Lindsay F.
18 Angerholzer in her official capacity as treasurer violated 52 U.S.C. § 30125(e);
19
20 2. Approve the Factual and Legal Analysis;
21
22 3. Approve the appropriate letters; and
23

⁶ Solicitations include communications that provide instructions on how or where to send contributions, or identify a Web address that redirects to a page dedicated to making a contribution. 11 C.F.R. § 300.2(m)(1)(ii).

⁷ 52 U.S.C. § 30125(e)(1)(B); 11 C.F.R. § 300.62.

⁸ *Heckler v. Chaney*, 470 U.S. 821 (1985).

4. Close the file as to all Respondents.

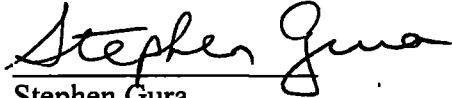
Lisa J. Stevenson
Acting General Counsel

Kathleen M. Guith
Associate General Counsel


7.19.17

Date


BY:



Stephen Gura
Deputy Associate General Counsel



Jeff S. Jordan
Assistant General Counsel



Wanda D. Brown
Attorney

Attachment: Factual and Legal Analysis

FACTUAL AND LEGAL ANALYSIS

I. INTRODUCTION

II. FACTUAL AND LEGAL ANALYSIS

ATTACHMENT 1
Page 1 of 3

1 contain information regarding the Act's limitations and prohibitions. However, Respondents
2 also assert that it is unlikely that the email prompted prohibited or excessive contributions, and
3 provided sworn statements that Kevin Boyle received only \$1,170 in donations, all from
4 individuals, between the date of the email and the general election.⁴

5 The Act and Commission regulations prohibit federal candidates, federal officeholders,
6 agents acting on their behalf, and entities that are directly or indirectly established, financed,
7 maintained, controlled by, or acting on behalf of federal candidates or officeholders from
8 soliciting,⁵ receiving, directing, transferring, spending, or disbursing funds in connection with an
9 election for non-federal office, unless the funds are subject to the limitations, prohibitions, and
10 reporting requirements of the Act."⁶

11 Although the Respondents admit that Brendan Boyle sent an email soliciting funds for his
12 brother that were not limited to funds permissible under the Act, they provided sworn statements
13 that the state committee received only \$1,170 in donations between the date of the email and the
14 election. Given the *de minimis* amount of the contributions in question, and the information
15 provided by the Respondents suggesting that those contributions did not violate the Act's source
16 prohibition and amount limitations, and in furtherance of the Commission's priorities, relative to

⁴ *Id.* See Resp. Attach. 2, Scott Heppard Affidavit (Mar. 1, 2017). In affidavits from Lindsay F. Angerholzer, treasurer for the Committee, and Scott Heppard, volunteer campaign manager for the state committee, Kevin Boyle received only five contributions totaling \$1,170 between the date of the email and the date of the general election. Although Respondents admit that it is not possible to tell whether these five contributions were made through the electronic link in the email, Heppard avers that a review of the contributor history indicates that none of the contributors made aggregate contributions that exceeded \$2,700. Further, Heppard asserts that the five contributors had made earlier contributions to Kevin Boyle's state campaign and, therefore, had provided occupation and employer information, and had previously affirmed that their contributions were made by the individual and not by a corporation or labor union.

⁵ Solicitations include communications that provide instructions on how or where to send contributions, or identify a Web address that redirects to a page dedicated to making a contribution. 11 C.F.R. § 300.2(m)(1)(ii).

⁶ 52 U.S.C. § 30125(e)(1)(B); 11 C.F.R. § 300.62.

1 other matters pending on the Enforcement docket, the Commission exercised its prosecutorial
2 discretion to dismiss the allegation that Brendan Boyle and Citizens for Boyle and Lindsay F.
3 Angerholzer in her official capacity as treasurer violated 52 U.S.C. § 30125(e) and closed the file
4 as to all Respondents.⁷

⁷ *Heckler v. Chaney*, 470 U.S. 821 (1985).